

BEFORE THE BOARD OF COUNTY COMMISSIONERS
OF LANCASTER COUNTY, NEBRASKA

COUNTY TEXT AMENDMENT NO. 19007:)	
TEXT AMENDMENT TO THE LANCASTER)	
COUNTY ZONING RESOLUTION, ARTICLE)	
2, 4, 5, 6, 7, 9, 13 AND 17, RELATED TO)	RESOLUTION NO. <u>2-20-0037</u>
LARGE AND SMALL SOLAR FACILITIES,)	
AS PROVIDED IN EXHIBIT A)	

WHEREAS, pursuant to Neb. Rev. Stat. § 23-114, the Lancaster County Board of Commissioners (“Board”) is authorized to make amendments to the 1979 Zoning Resolution of Lancaster County, which are consistent with the County’s Comprehensive Plan and after receipt of specific recommendations from the Lincoln/Lancaster County Planning Commission (“Planning Commission”);

WHEREAS, David Cary, the Lincoln-Lancaster County Planning Department Director, (“Applicant”) has requested a text amendment to the Lancaster County Zoning Resolution, Article 2, 4, 5, 6, 7, 9, 13 and 17, related to large and small solar facilities, as provided in Exhibit “A,” attached hereto and incorporated by this reference;

WHEREAS, the Lincoln-Lancaster County Planning Department (“Department”) has recommended approval of this amendment because the Comprehensive Development Plan encourages alternative and renewable energy sources, this text amendment would greatly expand access to solar energy throughout Lancaster County (“County”), and the proposed conditions for a special permit would minimize impacts on surrounding areas where appropriate;

WHEREAS, on June 24, 2020, after the public hearing, the Planning Commission voted 8-0 to recommend approval of said text amendment;

WHEREAS, on July 14, 2020, the Board conducted a public hearing regarding said text amendment;

WHEREAS, on July 14, 2020, the Board during a public meeting voted to APPROVE the proposed text amendment with amendments to the language as provided in Exhibit "B";

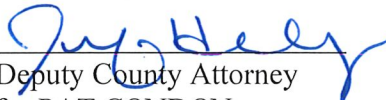
NOW, THEREFORE, BE IT RESOLVED, by the Board, that the amendments to the Lancaster County Zoning Resolution, as provided in Exhibit "A", and the amendments to Exhibit "A" as provided in Exhibit "B", are hereby APPROVED; and



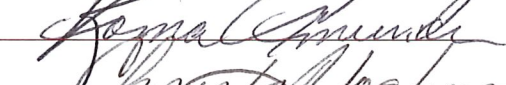


BE IT FURTHER RESOLVED, that any other references in said Resolution which may be affected by the amendments specified in Exhibit "A", and the amendments to Exhibit "A" as provided in Exhibit "B", and they hereby are, amended to conform to such specific amendments.

DATED this 14 day of July, 2020, in the County-City Building, Lincoln, Lancaster County, Nebraska.

BY THE BOARD OF COUNTY
COMMISSIONERS OF
LANCASTER COUNTY, NEBRASKA

APPROVED AS TO FORM
this 14 day of
July, 2020.


Deputy County Attorney
for PAT CONDON
County Attorney

Proposed Draft Text Amendment #19007 to the Lancaster County Zoning Regulations:
Solar Energy Facilities

ARTICLE 2 DEFINITIONS

2.006. E.

Electrical substation shall mean a facility with equipment that switches, changes, or regulates electric voltage.

2.013. L.

Large Solar Facility shall mean multiple SECSs and any related supporting infrastructure that primarily provide off-site power, have a rated capacity of one hundred (100) kilowatts (kW) (ac) or more, and is the primary use on a premises.

Lot shall mean a parcel of land occupied or intended for occupancy by a use permitted in this title, and generally fronting upon a street. A lot may front upon a private roadway, or have other frontage requirements if specifically provided in this title.

2.015. N.

Nonparticipating Property shall mean any premises where a property owner does not have a contractual arrangement regarding a proposed or existing special permitted use.

2.017. P.

Participating Property shall mean any premises where a property owner has a contractual arrangement regarding a proposed or existing special permitted use.

Private electric supplier shall mean an electric supplier producing electricity from a privately developed renewable energy generation facility (e.g., solar facility, biogas, geothermal) that is not a public power district, a public power and irrigation district, a municipality, a registered group of municipalities, an electric cooperative, an electric membership association, any other governmental entity, or any combination thereof.

Public electric supplier shall mean a legal entity supplying, producing, or distributing electricity within the County for sale at wholesale or retail that is a public power district, a public power and irrigation district, a municipality, a registered group of municipalities, an electric cooperative, an electric membership association, any other governmental entity, or any combination thereof.

2.020. S.

Solar Energy Conversion System ("SECS") shall mean any device, including, but not limited to, a solar panel or solar collector, which collects and converts solar energy to a form of usable energy.

Small Solar Facility shall mean multiple SECSs and any related supporting infrastructure that primarily provide off-site power, have a rated capacity of less than one hundred (100) kilowatts (kW) (ac), and is the primary use on a premises.

ARTICLE 4 "AG" AGRICULTURAL DISTRICT

4.03 Permitted Uses.

j. Small Solar Facility;

4.007 Permitted Special Uses

ai. Large Solar Facility.

ARTICLE 5 "AGR" AGRICULTURAL RESIDENTIAL DISTRICT

5.007. Permitted Special Uses

u. Small Solar Facility.

ARTICLE 6 "R" RESIDENTIAL DISTRICT

6.005. Permitted Special Uses

r. Small Solar Facility.

ARTICLE 7 "B" BUSINESS DISTRICT

7.003. Use Regulations

ad. Small Solar Facility.

ARTICLE 9 "I" INDUSTRIAL DISTRICT

9.003. Use Regulations

f. Unclassified Industries and Uses:

5. Small Solar Facility;

6. Large Solar Facility.

ARTICLE 13 SPECIAL PERMIT

13.001. Special Permit

In addition to uses allowed under other districts, the Planning Commission, and if appealed, the County Board, may by special permit after a public hearing, authorize any of the uses designated in this Article as permitted special uses. Such permitted special uses shall be restricted to the particular district or districts listed. The Planning Commission, and if appealed, the County Board, may also permit an increase in the height of any such building and permit a lesser area than required aforesaid in this resolution, and may modify or waive or add conditions of approval to the listed conditions in this Article as deemed appropriate to maintain the health, safety and general welfare of the surrounding properties. The Planning Commission may also grant special permits for variances from the provisions of ARTICLE 11 of this resolution.

13.051 Solar Energy Conversion System (SECS)

- a. A Large Solar Facility may be allowed in the AG District by special permit under the following conditions:
 - i. The Large Solar Facility shall use photovoltaic cells to convert solar energy into electricity.
 - ii. No electrical substation owned or operated by a private electric supplier, or any other facility owned or operated by a private electric supplier to support the generation, transmission or distribution of electricity for a Large Solar Facility, shall be located as to cause an exceedance of the following noise level standards.
 - 1. From the hours of 7 am to 10 pm: Sixty (60) dBA maximum 10-minute LAeq
 - 2. From the hours of 10 pm to 7 am: Fifty (50) dBA maximum 10-minute LAeq

For the purposes of determining compliance with these standards, noise levels shall be measured at the closest exterior wall of any dwelling unit located on the property that submitted the noise complaint. If an electrical substation(s) owned or operated by a private electric supplier violates a noise standard at a dwelling unit constructed after the electrical substation(s) is approved, then the electrical substation becomes a non-conforming use. Electrical substations owned by public electric suppliers shall not be subject to the noise level standards herein.

- iii. Obtain an approved erosion control plan from the Lower Platte South Natural Resources District or Nemaha Natural Resources District, depending on the location of the Large Solar Facility, before receiving building permits.
- iv. The Large Solar Facility shall provide visual screening for adjacent non-participating residential uses, public park uses, or school uses, through setbacks as otherwise required in the Lancaster County Zoning Regulations and/or other techniques to address the site-related impacts of the Large Solar Facility on adjacent non-participating properties. The applicant may use fences, walls, berming, vegetation, or some combination thereof to provide visual screening. Fencing or berming may be used to supplement other screening methods, but shall not account for over fifty percent (50%) of the screening. The screen shall cover at least seventy percent (70%) of the surface area of a vertical plane extending along the property line from the ground to a height of at least eight (8) feet above the adjacent ground, provided, however, that existing natural features, topography and vegetation shall count toward this requirement.
 1. If the visual screening is achieved through a fence or wall, it shall be provided along the property line as follows:
 - a. Acceptable fence and wall materials for visual screening include masonry, stone, and wood, but exclude chain link fences (with or without slats). Alternative fence materials being used for screening must be approved by the Planning Director.
 2. If the visual screening is achieved through berming, it shall be provided along the property line as follows:
 - a. The side slopes shall not exceed three to one (3 to 1), horizontal to vertical.
 - b. The mounded ground surface shall be protected to prevent erosion through the use of turf lawn or other alternative groundcovers.
 3. If the visual screening is achieved through vegetation, it shall be provided along the property line as follows:
 - a. At a rate of at least four (4) trees every one hundred (100) linear feet. Of the four (4) trees every one hundred (100) linear feet, at least one (1) shall be a deciduous shade tree and three (3) shall be evergreen or ornamental trees. The trees shall be evenly distributed within each one hundred (100) linear feet section.
 - b. At least two-thirds (2/3), but no more than three-quarters (3/4) of the total ornamental/evergreen trees along the property line shall be made up of evergreen trees.
 - c. Each tree shall have a minimum mature height of fifteen (15) feet.
 4. Visual screening is not required along the property line adjacent to a Participating Property.
- v. Each application shall have a decommissioning plan (removal of equipment/improvements and restoration of lands) that is reviewed and approved by the Planning Department prior to beginning operations. The decommissioning plan shall provide the following:
 1. A plan outlining the means, procedure, and costs of removing the Large Solar Facility, including, but not limited to, the solar panels and collectors, electrical wiring/cabling, fencing, and any related supporting infrastructure to a minimum depth of three (3) feet.
 2. At the expense of the permittee, a cost estimate for the decommissioning of the Large Solar Facility and any estimated resale and salvage value shall be prepared by a professional

engineer. The permittee shall provide to the Planning Department a revised and updated decommissioning cost estimate every five (5) years from the date of approval to cover the cost of meeting this obligation. The decommissioning cost estimate shall explicitly detail the cost, any estimated resale and salvage values, shall account for inflation, cost and value changes, and advances in decommissioning technologies and approaches.

3. The estimated decommissioning cost, less any resale and salvage value, shall be guaranteed in one of the following forms: (i) surety bond, (ii) cash to be held in escrow by the County Treasurer at a Bank, or (iii) a letter of credit from a financial institution reasonably acceptable to the County which shall be irrevocable unless replaced with cash or other form of security reasonably acceptable to County. The owner of the Large Solar Facility shall provide the decommissioning cost guaranty no later than the end of the fifteenth (15th) year of operation, and shall maintain the financial security thereafter for as long as the Large Solar Facility is in existence or upon discontinuance, decommissioning, or abandonment of the Large Solar Facility. Such financial security shall be updated every five (5) years to cover the costs associated with the updated decommissioning cost estimates.
4. For purposes of this Section, discontinuance, decommissioning, or abandonment shall mean the Large Solar Facility has produced no energy for twelve (12) consecutive months. The owner or operator shall have twelve (12) months to complete decommissioning of the Large Solar Facility. If the owner or operator of the Large Solar Facility fails to remove the installation in accordance with the requirements of this permit or within twelve (12) months following discontinuance, decommissioning, or abandonment, the County may collect the bond or other financial security and the County or a hired third party may enter the property to physically remove the installation.

- vi. The Large Solar Facility shall meet the following setback requirements:

<u>Property Line Setbacks</u>	
<u>Non-Participating Property with a Dwelling</u>	<u>100 feet</u>
<u>Non-Participating Property without a Dwelling</u>	<u>50 feet</u>
<u>Participating Property with a Dwelling</u>	<u>0 feet</u>
<u>Participating Property without a Dwelling</u>	<u>0 feet</u>
<u>Public or Private Roadway</u>	<u>50 feet</u>

- b. A Small Solar Facility may be allowed in the AGR and R Districts by special permit under the following conditions:
 - i. The Small Solar Facility shall be in conformance with subsections 13.051(a)(i)-(vi) above.
 - ii. The height of the solar panel or solar collector and any mounts shall not exceed fifteen (15) feet when oriented at maximum tilt.

ARTICLE 17 ADDITIONAL HEIGHT AND AREA REGULATIONS

17.003

Barns, chimneys, place of religious assembly steeples, cooling towers, elevator bulkheads, fire towers, grain elevators, and storage structures, monuments, ornamental towers, silos, spires, stacks, stage towers of scenery lofts, tanks, water towers, WECS over the district height authorized by conditional use or special permit, wireless towers, or necessary mechanical appurtenances are exempt from the height regulations as contained herein.

SECS and WECS are permitted accessory uses associated with a primary use on the premises in all zoning districts provided they are in conformance with the provisions of Article 17 and any other applicable regulations of this Resolution and have a rated capacity of twenty-five (25) kilowatts (kW) (ac) or less.

- a. SECS and WECS that are part of the main structure shall comply with the applicable district's height, front, side, and rear yard requirements of the main structure.
- b. SECS and WECS that are not part of the main structure shall comply with the height, front, side, and rear yard requirements applicable to accessory buildings as described in Section 17.005 of this Resolution.
- c. Accessory SECS and WECS located on top of a building are exempt from the height regulations as contained herein.

- iv. The Large Solar Facility shall provide visual screening for adjacent non-participating residential uses, public park uses, and school uses, through setbacks as otherwise required in the Lancaster County Zoning Regulations and/or other techniques to address the site-related impacts of the Large Solar Facility on adjacent non-participating properties.
 1. The applicant shall use fences, walls, berming, vegetation, or some combination thereof to provide visual screening. Fencing, walls or berming may be used to supplement other screening methods, but shall not account for over fifty percent (50%) of the screening. Existing natural features, topography and vegetation may be used to achieve visual screening if provided in accordance to the visual screening requirements provided herein.
 - a. If the visual screening is for adjacent non-participating residential uses, it shall be provided as follows:
 - i. The screen shall only be required if the closest exterior wall of the dwelling is within three hundred (300) feet of the property line adjacent to the Large Solar Facility.
 - ii. If the screen is required, the screen shall cover one hundred percent (100%) of the surface area of a vertical plane extending along the property line adjacent to the Large Solar Facility at an amount equal to or greater than the surface area of the dwelling to be visually screened, plus seventy five (75) feet in both directions or until it reaches a public road right-of-way, whichever comes first, and from the ground to a height of at least eight (8) feet above the adjacent ground.
 - b. If the visual screening is for adjacent non-participating public park or school uses, it shall be provided as follows:
 - i. The screen shall cover at least seventy percent (70%) of a vertical plane extending along the entire property line adjacent to the Large Solar Facility, from the ground to a height of at least eight (8) feet above the adjacent ground.
 2. If the visual screening is achieved through a fence or wall, it shall be provided along the property line as follows:
 - a. Acceptable fence and wall materials for visual screening include masonry, stone, and wood, but exclude chain link fences (with or without slats). Alternative fence materials being used for screening must be approved by the Planning Director.
 3. If the visual screening is achieved through berming, it shall be provided along the property line as follows:
 - a. The side slopes shall not exceed three to one (3 to 1), horizontal to vertical.
 - b. The mounded ground surface shall be protected to prevent erosion through the use of turf lawn or other alternative groundcovers.
 4. If the visual screening is achieved through vegetation, it shall be provided along the property line as follows:
 - a. At a rate of at least four (4) trees every one hundred (100) linear feet. Of the four (4) trees every one hundred (100) linear feet, at least one (1) shall be a deciduous shade

tree and three (3) shall be evergreen or ornamental trees. The trees shall be evenly distributed within each one hundred (100) linear feet section.

- b. At least two-thirds ($2/3$), but no more than three-quarters ($3/4$) of the total ornamental/evergreen trees along the property line shall be made up of evergreen trees.
 - c. Each tree shall have a minimum mature height of fifteen (15) feet.
5. Visual screening is not required along the property line adjacent to a Participating Property.